

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

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**BRISHETTE JONES**

Plaintiff,

**v.**

**RECEIVABLES INC CORPORATION  
d/b/a NATIONA MANAGEMENT RECOVERY)  
CORP. and d/b/a RSTI and d/b/a RECOVERY )  
PERFORMANCE CAPITAL GROUP, )  
JOHN DOES, and JANE DOES )  
Defendants, )**

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**Civil Action No. 4:13-cv-00529**

**COMPLAINT AND DEMAND FOR JURY TRIAL**

**I. INTRODUCTION**

1. This is an action for actual and statutory damages brought by plaintiff Brishette Jones, an individual consumer, against Defendants' violations of the law, including, but not limited to violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (hereinafter "FDCPA") which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices; by these Defendants and their agents in their illegal efforts to collect a consumer debt from Plaintiff.

## **II. JURISDICTION**

2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before, “[A]ny appropriate United States district court without regard to the amount in controversy,” and also under 28 U.S.C. § 1331 and 1337.

3. Venue in this District is proper pursuant to 28 U.S.C. § 1391(b)(2) in that a substantial part of the events or omissions giving rise to the claim occurred here. Because Defendants transact business here, personal jurisdiction is established.

## **III. PARTIES**

4. Plaintiff, Brishette Jones (hereinafter “Plaintiff”) is a consumer, as that term is defined by 15 U.S.C. § 1692a(3), as well as a natural person allegedly obligated to pay any debt, residing in Harris County, in the state of Texas.

5. Defendant, Receivables Inc. Corporation d/b/a National Management Recovery Corp. and d/b/a RSTI and d/b/a Recovery Performance Capital Group (hereinafter “RSTI”) is a collection agency and corporation engaged in the business of collecting debt in this state with its principal place of business located in San Diego County, in the state of California at 1101 Camino Del Rio South Suite 440 San Diego, California, 92108.

6. Defendant John Does 1-10 (hereinafter “Defendant John Does”) are natural person(s) who were employed by Defendant as collection agents, whose identities are currently

unknown to Plaintiff. Defendant John Does are “debt collectors” as that term is defined by the FDCPA, 15 U.S.C. § 1692a(6). One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

7. Defendant Jane Does 1-10 (hereinafter “Defendant Jane Does”) are natural person(s) who was employed by Defendant as collection agents, whose identities are currently unknown to Plaintiff. Defendant Jane Does are “debt collectors” as that term is defined by the FDCPA, 15 U.S.C. § 1692a(6). One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

8. Plaintiff is informed and believes, and thereon alleged, that Defendants use instrumentalities of interstate commerce or the mails in any business, the principal purpose of which being the collection of debts. Defendants are engaged in the collection of debts from consumers using the mail, electronic mail, facsimile, and telephone, and regularly collects or attempts to collect, directly or indirectly, debts owed or due or alleged to be owed or due another, being a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6).

9. At all relevant times, Defendant RSTI acted through its duly authorized agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

#### **IV. FACTUAL ALLEGATIONS**

10. Sometime before February 27, 2013, Plaintiff, Brishette Jones, incurred a financial obligation that was primarily for personal, family, or household purposes and is therefore a 'debt', as that term is defined by the FDCPA, 15 U.S.C. § 1692a(5).

11. Upon information and belief, at some point the alleged debt was consigned, placed or otherwise transferred to Defendants for collection from Plaintiff Brishette Jones.

12. The debt that Defendants are attempting to collect on is an alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment, as, again, defined by the FDCPA, 15 U.S.C. § 1692a(5).

13. Upon information and belief, within one year prior to the filing of this complaint, Defendants, during communications with Plaintiff, within one year prior to the filing of this complaint, did not state that Defendants were debt collectors, attempting to collect on a debt, and that any information obtained would be used for that purpose.

14. Upon information and belief, within one year prior to the filing of this complaint, Defendants threatened to have Plaintiff's taxes garnished itself, and made misleading communications in regards to the immediacy by which such action would be taken if she did not make a payment by end of that day, when it cannot do any of those things.

15. Upon information and belief, within one year prior to the filing of this complaint, Defendants, within thirty days (30) of their initial communication with Plaintiff, demanded immediate payment from her without letting her know that she still had the opportunity to seek to dispute and/or seek validation of the alleged debt; overshadowing her rights under the FDCPA.

16. Upon information and belief, within one year prior to the filing of this complaint, Defendants continued to call Plaintiff after it had already been given reason to know Plaintiff had legal representation, and the contact information of Plaintiff's legal representation, without Plaintiff's express consent and/or the call(s) being for emergency purposes.

17. As a result of the acts alleged above, Defendants caused Plaintiff to become very upset because of the aggressive manner in which this alleged debt was collected by these Defendants.

18. Plaintiff suffered actual damages as a result of these illegal collection communications by these Defendants in the form of anger, anxiety, emotional distress, frustration, and upset, amongst other negative emotions.

19. Defendants' illegal abusive collection communications as more fully described above were the direct and proximate cause of severe emotional distress on the part of Plaintiff.

**V. CAUSES OF ACTION**

**COUNT I - VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES  
ACT  
15 U.S.C. § 1692 et seq.**

20. Plaintiff Brishette Jones repeats, realleges, and incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

21. The foregoing acts and omissions of each Defendant and their agents constitute numerous and multiple violations of the FDCPA including, but not limited to, each and every one of the provisions of the FDCPA, 15 U.S.C. § 1692 et seq., cited above, and below, with respect to Plaintiff:

- (a) Defendants violated §1692e(2)(B) of the FDCPA by falsely representing the services rendered or compensation which may be lawfully received by Defendants for the collection of the alleged debt; and
- (b) Defendants violated §1692e(5) of the FDCPA by threatening to take action that it did not intend to take; and
- (c) Defendants violated §1692e(10) of the FDCPA by using false, deceptive, or misleading representation or means in connection with the collection of Plaintiff's alleged debt; and

(d) Defendants violated §1692e(11) of the FDCPA by failing to disclose in the oral communications with Plaintiff that the communications were from a debt collector, and that the debt collector was attempting to collect a debt, and that any information obtained would be used for that purpose, when said communications were not formal pleadings; and

(e) Defendants violated §1692f of the FDCPA by using unfair or unconscionable means in connection with the collection of an alleged debt; and

22. As a result of the foregoing violations of the FDCPA, Defendants are liable to the Plaintiff for actual damages pursuant to 15 U.S.C. § 1692k(a)(1), statutory damages in an amount up to \$1000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A), and reasonable costs and attorney fees pursuant to 15 U.S.C. § 1692k(a)(3), from each Defendant herein.

## **COUNT II - INVASION OF PRIVACY BY INTRUSION UPON SECLUSION**

23. Plaintiff Brishette Jones repeats, realleges, and incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

24. Congress explicitly recognized a consumer's inherent right to privacy in collection matters in passing the Fair Debt Collection Practices Act, when it stated as part of its findings:

**Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy.**

15 U.S.C. § 1692(a) (emphasis added).

25. Congress further recognized a consumer's right to privacy in financial data in passing the Gramm Leech Bliley Act, which regulates the privacy of consumer financial data for a broad range of "financial institutions" including debt collectors, albeit without a private right of action, when it stated as part of its purposes:

It is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information.

15 U.S.C. § 6801(a) (emphasis added).

26. Defendants and/or their agents intentionally and/or negligently interfered, physically or otherwise, with the solitude, seclusion and/or private concerns or affairs of Plaintiff,



namely, by repeatedly and unlawfully attempting to collect a debt and thereby invaded Plaintiff's privacy.

27. Defendants also intentionally and/or negligently interfered, physically or otherwise, with the solitude, seclusion and/or private concerns or affairs of the Plaintiff, namely, by unlawfully continuing to contact Plaintiff after it already had reason to know that Plaintiff has legal representation and it already had reason to know the contact information for Plaintiff's legal representation, without her consent, and without the contact being for emergency purposes, and thereby invaded Plaintiff's right to privacy.

28. Defendants and their agents intentionally and/or negligently caused emotional harm to Plaintiff by engaging in highly offensive conduct in the course of collecting this debt, thereby invading and intruding upon Plaintiff's right to privacy.

29. Plaintiff had a reasonable expectation of privacy in Plaintiff's solitude, seclusion, private concerns and affairs.

30. The conduct of these Defendants and their agents, in engaging in the above-described illegal collection conduct against Plaintiff, resulted in multiple intrusions and invasions of privacy by these Defendants which occurred in a way that would be highly offensive to a reasonable person in that position.

31. Defendants' acts as described above were done intentionally with the purpose of coercing Plaintiff to pay the alleged debt.

32. As a result of such intrusions and invasions of privacy, Defendants are liable to Plaintiff for actual damages in an amount to be determined at trial from each and every Defendant.

## **VI. PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Brishette Jones respectfully requests that judgment be entered against each Defendant for the following:

A. Actual damages from each Defendant pursuant to 15 U.S.C. § 1692k(a)(1) for the emotional distress suffered as a result of the intentional and/or negligent FDCPA violations; in an amount to be determined at trial and for Plaintiff.

B. Statutory damages of \$1000.00 from each Defendant pursuant to 15 U.S.C. § 1692k(a)(2)(A).

C. Costs and reasonable attorney fees from each Defendant and for Plaintiff pursuant to 15 U.S.C. § 1692k(a)(3).

D. For such other and further relief as the Court may deem just and proper.

Dated: February 27, 2013

RESPECTFULLY SUBMITTED,

By: /s/ Kevin Crick

Kevin Crick

BBO: 680950

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**Attorney for Plaintiff**

### **DEMAND FOR JURY TRIAL**

Please take notice that Plaintiff Brishette Jones demands trial by jury in this action on all issues so triable. US Const. amend. 7. Fed.R.Civ.P. 38.